

PATENT COOPERATION TREATY

from the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/CA2004/000109

International filing date (day/month/year)
27.01.2004

Priority date (day/month/year)
27.01.2003

International Patent Classification (IPC) or both national classification and IPC
B60P7/08, B66D1/16

Applicant
DARRAY INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2004/000109

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2004/000109

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	
Inventive step (IS)	Yes: Claims	2,4-7,9-13,19
	No: Claims	1,3,8,14-18
Industrial applicability (IA)	Yes: Claims	1-19
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Documents from the search

D1: US-5295664
D2: WO 99/17704
D3: DE-10050000
D4: US-3240473
D5: US-2003/0031524

1. Independent claim 1

D1 discloses (fig.1-3) a winch for use with a strap ("7") for fastening a load onto a transportation vehicle (implicitly given), the winch comprising

- a tightening assembly comprising
 - a support structure (fig.1-2) with two flanges ("10, 10' "), a cross member ("11"), the cross member being devised for mounting onto a corresponding side track of the vehicle (implicitly given and column 2, lines 22-28)
 - a tightening reel ("6") for receiving a portion of a strap ("7"), the reel being pivotally mounted between the two flanges (fig.1-2)
- a gear assembly (fig.1-2) operatively connected to the tightening assembly, the gear assembly comprising
 - a gear ("19") securely mounted to the tightening reel so as to rotate with it,
 - a worm ("21") positioned adjacent to the gear ("19"),
 - a casing ("24/25") mounted onto the first support flange having recesses for containing the gear ("19") and worm ("21").

The claimed subject-matter differs from D1 in that the worm gear cannot be positioned between a first configuration, where the worm is away from the gear, and a second configuration where the worm is threadedly engaged with the gear.

This slight constructional change comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. The skilled person would see the problem to disengage the worm gears when not being in the energised position and he would solve the problem by making the worm axially shiftable between the two configurations, as disclosed in D2 (in Fig. 3, 3a,

7 and description, pages 5, 13-15). Consequently the subject-matter of claim 1 lacks inventiveness (Art. 33(3) PCT).

2. Dependent claims 2-15

The additional features of claims 3, 8, 14-15 are regarded as merely conventional features of minor importance in this technical field or as obvious for the skilled person in the art. Any addition of these claims to the aforementioned claims would probably not be regarded as inventive (Art. 33(3) PCT).

Claims 10-11 are dependent from claim 1, although the feature "...winding reel..." and is introduced for the first time in claim 2, rendering claims 10-11 as not clear. The dependency should be corrected accordingly to overcome the unclarity matter. Regarding novelty and inventiveness they were interpreted as being dependent on claim 2.

The subject-matter of dependent claims 2 appears to be new and inventive (Art. 33(2) and 33(3) PCT). It is suggested therefore that a new independent claim be drafted to include these features, bearing in mind that the features known in combination in D1 should be placed in the preamble of such a claim in accordance with Rule 6.3(b) PCT. Novelty and inventiveness of dependent claims 4-7 and 9-13 derives from their dependency on current claim 2. The remaining dependent claims should be made dependent on the modified new claim 1 in order to avoid objections against novelty and/or inventiveness.

3. Independent claim 16

Same reasoning applies as stated in paragraphs 1-2.

4. Method claims 17-19

Claims 17-18: The method steps claimed are already implicitly disclosed by D1 and D2. Same reasoning applies as stated in paragraphs 1-2.

Claim 19: The subject-matter of dependent claim 19 appears to be new and inventive (Art. 33(2) and 33(3) PCT). It is suggested therefore that a new independent method claim be drafted to include these features, bearing in mind that the features known in combination in D1 should be placed in the preamble of such a claim in accordance with Rule 6.3(b) PCT.

Re Item VII

Certain defects in the international application

- the description should be brought into conformity with the new claims to be filed;
- at least documents D1 and D2 and the relevant background art disclosed therein should be identified and mentioned in the description (Rule 5.1(a) (ii) PCT);
- it is appropriate to draft the independent claims in the two-part-form with the features known from prior art D1 being placed in the preamble (Rule 6.3(b) PCT); the characterizing portion should precede with "characterized by" or "characterized in that";
- reference signs (**both** in the preamble and the characterising portion) in parentheses should be inserted in **all** claims to increase their intelligibility (Rule 6.2(b) PCT).

Re Item VIII

Certain observations on the international application

Claims 10-11 are dependent from claim 1, although the feature "...winding reel..." and is introduced for the first time in claim 2, rendering claims 10-11 as not clear. The dependency should be corrected accordingly to overcome the unclarity matter.

Further procedure

- care should be taken during revision not to add subject-matter which extends beyond the disclosure in the international application as filed (Art. 19(2); Art. 34(2) b) PCT);
- the applicant is requested to **clearly identify the amendments carried out** and to indicate the passages of the application as filed on which these amendments are based (Rule 66.8(a) PCT);
- in particular the applicant should clearly state which problem is solved by the characterising features of claim 1.